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California non-profit corporation.

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18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
19 **COUNTY OF SANTA CLARA**

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21 THE PEOPLE OF THE STATE OF
CALIFORNIA on the RELATION of SAN
22 JOSE POLICE OFFICERS' ASSOCIATION,

23 *Plaintiff,*

24 v.

25 CITY OF SAN JOSE, and CITY COUNCIL OF
SAN JOSE,

26 *Defendants.*
27
28

CASE NO. 113-CV-245503

**[PROPOSED] INTERVENORS' RESPONSE
TO OBJECTIONS BY SAN JOSE POLICE
OFFICER'S ASSOCIATION TO
EVIDENCE PROFFERED BY
[PROPOSED] INTERVENORS IN
SUPPORT OF APPLICATION TO
INTERVENE**

Proposed Intervenor's hereby respond to San Jose Police Officer's Association's objections to the Proposed Intervenor's evidence submitted in the Declarations of Peter Constant, Steven Haug, and Silicon Valley Taxpayers Association in Support of Proposed Intervenor's Application to Intervene.

The responses are made to each objection as follows:

MATERIAL OBJECTED TO	GROUND	RESPONSE	RULING
1. Constant Decl., ¶ 10: "As a City Councilmember who was deeply involved in working to find solutions to the City's structural budget deficit, I recognized expanding pension costs as a key driver of San Jose's rising debt obligations. Beginning in 2011, I worked closely with Mayor Reed and the San Jose City Attorney to design and draft Measure B."	<p>Relevance (Evidence Code § 350)</p> <p>The present lawsuit seeks a determination of whether Measure B was permissibly placed on the ballot in the first place or whether doing so violated the Meyers-Milias-Brown Act ("MMBA"), Government Code section 3500 <i>et seq.</i> If it was not validly placed on the ballot, and because Constant is not covered by the MMBA, he can have no legally-cognizable interest in the outcome of this matter. As such, Constant's backing of Measure B is irrelevant.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>No foundation or stated basis for personal knowledge is provided for the statement.</p> <p>Improper Opinion (Evidence Code § 800 <i>et seq.</i>)</p>	<p>This statement is relevant to Mr. Constant's interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm Mr. Constant. Evid. Code §§ 210 and 350.</p> <p>This statement is based on Mr. Constant's personal knowledge, as a San Jose Councilmember. (Evid. Code §§ 403, 701 and 801.)</p> <p>This statement is also based on Mr. Constant's experience as set forth in paragraphs 1 through 9 of his Declaration in Support of Application to Intervene. (Evid. Code §§ 720 and 801.)</p> <p>Testimony does not constitute a legal conclusion or an improper opinion because it is in the form of an opinion that is otherwise admissible. (Evid. Code §§ 800 <i>et seq.</i>; 310 <i>et seq.</i>)</p>	<p><input type="checkbox"/> Overruled:</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p>

MATERIAL OBJECTED TO	GROUNDS	RESPONSE	RULING
	The opinion or beliefs of Mr. Constant are inadmissible.		
2. Constant Decl., ¶ 11: "As a principle architect and drafter of Measure B, I publicly supported the measure and campaigned vigorously for its passage. I conducted a number of town halls, community meetings, debates, and media interviews in support of Measure B."	Relevance (Evidence Code § 350) See objection above concerning the irrelevance of Mr. Constant's backing of Measure B.	This statement is relevant to Mr. Constant's interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm Mr. Constant. Evid. Code §§ 210 and 350.	<input type="checkbox"/> Overruled: <input type="checkbox"/> Sustained Grounds:
3. Constant Decl., ¶ 12: "On June 5, 2012, San Jose voters – including the voters of District 1 whom I represented overwhelmingly approved Measure B."	Relevance (Evidence Code § 350) The present lawsuit seeks a determination of whether Measure B was permissibly placed on the ballot in the first place or whether doing so violated the Meyers-Milias-Brown Act ("MMBA"), Government Code section 3500 <i>et seq.</i> If it was not validly placed on the ballot, the voters' approval of Measure B was <i>ultra vires</i> . As such, the passage of Measure B is irrelevant to this lawsuit.	This statement is relevant to Mr. Constant's interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm Mr. Constant. Evid. Code §§ 210 and 350.	<input type="checkbox"/> Overruled: <input type="checkbox"/> Sustained Grounds:
4. Constant Decl. ¶ 13: "The development and passage of Measure B was one of my key achievements as a City Councilmember. I believe Measure B provides reforms necessary to ensure the City of San Jose meets its future pension obligations"	Relevance (Evidence Code § 350) See objection above concerning the irrelevance of Mr. Constant's backing of Measure B. Improper Opinion (Evidence Code § 800 <i>et seq.</i>)	This statement is relevant to Mr. Constant's interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm Mr. Constant. Evid. Code §§ 210 and 350.	<input type="checkbox"/> Overruled: <input type="checkbox"/> Sustained Grounds:

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<p>to me personally as a former San Jose police officer, by providing for the long term stability of the retirement fund. For example, Section 1511-A of Measure B discontinues the Supplemental Retiree Benefit Reserve ("SRBR"), and returns its assets to the appropriate retirement trust fund." It further provides that "[a]ny supplemental The SRBR was designed to allow the retirees to benefit when the money in the fund of the retirement system grows because of superior investment. However, as recognized by all parties in <i>San Jose Police Officers' Association v. City of San Jose</i>, excess earnings are not "free". "Skimming" excess assets when earnings are high and not returning funds in years in which the system has losses, does in fact have a cost to the system. (Statement of Decision in <i>San Jose Police Officers' Association v. City of San Jose</i> (and Consolidated Actions and Related Cross-Complaint), Santa Clara Superior Court No. 1-12-CV 225296, pp. 24-25 ("Consolidated Cases").) I believe Section 1511-A increases the long term stability of</p>	<p>The opinion or beliefs of Mr. Constant are inadmissible.</p> <p>Improper Legal Conclusion (Evidence Code § 310 <i>et seq.</i>)</p> <p>Statements concerning the legal effect of Measure B or its invalidation are improper legal conclusions.</p>	<p>Testimony does not constitute a legal conclusion or an improper opinion because it is in the form of an opinion that is otherwise admissible. (Evid Code §§ 800 <i>et seq.</i>; 310 <i>et seq.</i>)</p> <p>This statement is based on Mr. Constant's personal knowledge, as a San Jose Councilmember. (Evid. Code §§ 403, 701 and 801.)</p> <p>This statement is also based on Mr. Constant's experience as set forth in paragraphs 1 through 9 of his Declaration in Support of Application to Intervene. (Evid. Code §§ 720 and 801.)</p>	

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<p>the retirement fund. Nullification of Measure B would result in reinstatement of the SRBR, in my view, to the long term detriment of the retirement fund. I am informed and believe that the City proposes in its settlement discussions with Relator that the SRBR will be replaced with a Guaranteed Purchasing Power provision ("GPP") for all current and future Tier 1 retirees. The GPP is designed to maintain the monthly allowance for Tier 1 retirees at 75% of purchasing power effective the date of the retiree's retirement. The GPP has the potential to eliminate the savings realized from the elimination of the SRBR as it has the potential to drain the retirement fund as inflation rises. The City's own experts concluded the cost of the GPP would be significant if inflation returns at high levels. Unlike SRBR, under the proposed Settlement Framework, the City apparently could not choose to not pay the GPP as inflation rises and the retirement fund suffers the negative impacts. (City of San Jose Memorandum to the Honorable Mayor and</p>			

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<p>City Council from Jennifer Schembri and Jennifer A. Maguire, dated July 24, 2015, p. 39, Ex. 2 to RJN.)”</p>			
<p>5. Constant Decl., ¶ 14: “San Jose’s regularly scheduled general municipal election occurred in November 2014. I initiated a campaign to run for the office of Mayor in August of 2013, but because of a death in my family, could not continue the campaign and closed my committee in March 2014. Nevertheless, I followed the 2014 Mayoral and City Council campaigns closely. Arguably, the dominant election issue in the mayoral race was pension reform. San Jose’s mayoral candidates were sharply divided on the issue. Candidate Dave Cortese, backed by the City’s unions, campaigned against Measure B. Conversely, then-city council member and current Mayor, Sam Liccardo, campaigned in favor of the measure, thereby earning him the support of much of the local business community. Sam Liccardo was elected</p>	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of Mr. Constant’s backing of Measure B. The support or opposition of other individuals regarding Measure B are equally irrelevant to the issue in this lawsuit.</p>	<p>This statement is relevant to Mr. Constant’s interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm Mr. Constant. Evid. Code §§ 210 and 350.</p>	<p><input type="checkbox"/> Overruled:</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p>

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<p>Mayor. I watched Mayor Liccardo's March 5, 2016 State of the City address online here: <http://sanjose.granicus.com/ViewPublisher.php?view_id=51> in which Mayor Liccardo states at 22:03: "... and in November I will ask you to approve a ballot measure to secure the three billion dollars of savings in future pension and retiree medical costs that we were able to reach through negotiations with our employees. Together we can conclude the most extensive pension reform negotiated in any city in this state."</p>			
<p>6. Constant Decl., ¶ 15: "In 2015, after my service as a City Councilmember ended, I became a Senior Fellow at the Reason Foundation and Director of the Pension Integrity Project. The Reason Foundation produces public policy research that advances a free society. The Pension Integrity Project provides education, policy options, and actuarial analysis for stakeholders to design pension reform proposals. My credentials and effectiveness as a Senior Fellow and Director at the Reason Foundation</p>	<p>Relevance (Evidence Code § 350)</p> <p>Mr. Constant's career path following his term as a member of the San Jose City Council is irrelevant to the issue in this lawsuit – i.e., whether Measure B was ever legally placed on the ballot. Equally irrelevant to whether Measure B was legally placed on the ballot is Mr. Constant's belief that his reputation and credentials may be impacted by the fate of Measure B. Indeed, reputational interest asserted by Constant is "too indirect and insubstantial to be legally protectable." (<i>Floyd v.</i></p>	<p>This statement is relevant to Mr. Constant's interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm Mr. Constant. Evid. Code §§ 210 and 350.</p>	<p><input type="checkbox"/> Overruled:</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p>

MATERIAL OBJECTED TO	GROUNDS	RESPONSE	RULING
<p>are based in part on my key role in leading the reforms adopted by Measure B. I have traveled throughout the country in my capacity as a City Councilmember and now as a Senior Fellow and Director at the Reason Foundation discussing my experience in San Jose regarding Measure B and providing expertise, guidance, education, and recommendations to state and local jurisdictions regarding pension reform. Attached hereto as Exhibit B is a true and correct copy of the list of my speaking engagements related to Measure B and/or pension reform issues from 2011 to present.”</p>	<p><i>City of New York</i> (2nd Cir. 2014) 770 F.3d 1051, 1060-61.)</p>		
<p>7. Constant Decl., ¶16: “I have been directly involved in designing, drafting, and negotiating a pension reform plan for the state of Arizona, which was passed with strong bipartisan support in both the Arizona Senate and House of Representatives and was signed by Arizona Governor Doug Ducey on February 16, 2016. The plan will now go before Arizona voters on May</p>	<p>Relevance (Evidence Code § 350)</p> <p>Manifestly the origin and fate of an Arizona ballot measure is irrelevant to this lawsuit regarding Measure B.</p>	<p>This statement is relevant to Mr. Constant’s interest in this litigation and settlement between the Parties. Mr. Constant’s involvement in Measure B was the key to his effective work in Arizona. A judgment invalidating Measure B will directly harm Mr. Constant. Evid. Code §§ 210 and 350.</p>	<p><input type="checkbox"/> Overruled:</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p>

MATERIAL OBJECTED TO	GROUNDS	RESPONSE	RULING
<p>17, 2016. Attached hereto as Exhibit C is a true and correct copy of a newspaper article from the <i>Arizona Republic</i> published on February 17, 2016 discussing the passage of the pension reform proposal and identifying me as a “key participant in the negotiations.” The article is also available online at: ">http://www.azcentral.com/story/news/arizona/politics/2016/02/16/arizona-pension-reform-signed-gov-doug-ducey-but-voters-have-say/80471656/#>.”</p>			
<p>8. Constant Decl., ¶ 17: “My credentials based on my involvement with Measure B and its viability after being mostly sustained in the Consolidated Cases were important to my credibility and effective work in Arizona. In fact, Measure B was so important that I am informed and believe the current president of the SJPOA communicated with key Arizona stakeholders in an attempt to undermine my negotiation efforts claiming Measure B had been a debacle rather than a successful reform campaign.”</p>	<p>Relevance (Evidence Code § 350)</p> <p>Manifestly the origin and fate of an Arizona ballot measure is irrelevant to this lawsuit regarding Measure B. Mr. Constant’s career path following his term as a member of the San Jose City Council is irrelevant to the issue in this lawsuit – i.e., whether Measure B was ever legally placed on the ballot. Equally irrelevant to whether Measure B was legally placed on the ballot is Mr. Constant’s belief that his reputation and credentials may be impacted by the fate of Measure B. Indeed, reputational interest asserted by Constant is “too indirect and</p>	<p>This statement is relevant to Mr. Constant’s interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm Mr. Constant. Evid. Code §§ 210 and 350.</p> <p>This statement is based on Mr. Constant’s personal knowledge, as a San Jose Councilmember. (Evid. Code §§ 403, 701 and 801.)</p> <p>This statement is also based on Mr. Constant’s experience as set forth in paragraphs 1 through 9 of his Declaration in Support of Application to Intervene. (Evid. Code §§ 720 and 801.)</p>	<p><input type="checkbox"/> Overruled:</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p>

MATERIAL OBJECTED TO	GROUNDS	RESPONSE	RULING
	<p>insubstantial to be legally protectable.” (<i>Floyd v. City of New York</i> (2nd Cir. 2014) 770 F.3d 1051, 1060-61.)</p> <p>Lack of Foundation (Evidence Code § 400 et seq.) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>Mr. Constant’s speculation regarding the actions of the SJPOA president are inadmissible.</p>		
<p>9. Constant Decl., ¶ 18: “I believe there is a substantial probability a court-imposed nullification of Measure B would harm my reputation and integrity as a successful pension reform professional advocate.”</p>	<p>Relevance (Evidence Code § 350)</p> <p>Mr. Constant’s career path following his term as a member of the San Jose City Council is irrelevant to the issue in this lawsuit – i.e., whether Measure B was ever legally placed on the ballot. Equally irrelevant to whether Measure B was legally placed on the ballot is Mr. Constant’s belief that his reputation and credentials may be impacted by the fate of Measure B. Indeed, reputational interest asserted by Constant is “too indirect and insubstantial to be legally protectable.” (<i>Floyd v. City of New York</i> (2nd Cir. 2014) 770 F.3d1051, 1060-61.)</p>	<p>This statement is relevant to Mr. Constant’s interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm Mr. Constant. Evid. Code §§ 210 and 350.</p> <p>This statement is based on Mr. Constant’s personal knowledge, as a San Jose Councilmember. (Evid. Code §§ 403, 701 and 801.)</p>	<p><input type="checkbox"/> Overruled:</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p>
<p>10. Constant Decl., ¶ 19: “While I was aware the City was discussing a settlement with the SJPOA regarding the implementation of</p>	<p>Improper Opinion (Evidence Code § 800 et seq.)</p> <p>The opinion or beliefs of Mr. Constant as to the status of this litigation</p>	<p>Testimony does not constitute a legal conclusion or an improper opinion because it is in the form of an opinion that is otherwise admissible.</p>	<p><input type="checkbox"/> Overruled:</p> <p><input type="checkbox"/> Sustained</p>

MATERIAL OBJECTED TO	GROUNDS	RESPONSE	RULING
<p>Measure B, it was uncertain whether that would occur because other unions and retirees affected by Measure B needed to agree to a settlement as well. I am informed and believe that the City Council approved the terms of a settlement with the Federated unions at its December 15, 2015 meeting and authorized the City Manager to negotiate and execute a Retirement Memorandum of Agreement between the City and Federated Bargaining Units. (City of San Jose, City Council Agenda, December 15, 2015 Synopsis, p. 13, Ex. 8 to RJN.) In the Federated Alternative Pension Reform Settlement Framework summary, the City disclosed that once a global settlement is reached, the quo warranto process would begin in court, which the City characterized as “a legal proceeding used to overturn a ballot measure post-election”. (Federated Alternative Pension Reform Settlement Framework Agreement – Executive Summary, dated February 24, 2016 (City of San Jose), p. 1, Ex. 9 to RJN.) The</p>	<p>are improper and inadmissible.</p> <p>Improper Legal Conclusion (Evidence Code § 310 <i>et seq.</i>)</p> <p>Statements concerning the legal significance of various events on this litigation, as well as the status of this litigation, are improper legal conclusions.</p>	<p>(Evid Code §§ 800 <i>et seq.</i>; 310 <i>et seq.</i>)</p> <p>This statement is based on Mr. Constant’s personal knowledge, as a San Jose Councilmember. (Evid. Code §§ 403, 701 and 801.)</p> <p>This statement is also based on Mr. Constant’s experience as set forth in paragraphs 1 through 9 of his Declaration in Support of Application to Intervene. (Evid. Code §§ 720 and 801.)</p>	<p>Grounds:</p>

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MATERIAL OBJECTED TO	GROUND	RESPONSE	RULING
summary indicates the quo warranto process has not yet begun pending ongoing negotiations, and further states, "The parties will agree upon and submit a factual stipulation and stipulated judgment in the quo warranto case finding that Measure B is invalid." (<i>Ibid.</i>) To my knowledge, and based on the public representations of the City, the quo warranto process has not yet begun, and the proposed stipulation and proposed judgment have not yet been finalized or made public, as was represented to this Court at the Case Management Conference in this matter on February 18, 2016. I am also informed and believe the City and SJPOA are planning for the intervention of the Local 230 union in this action. (Addendum #2 to July 15, 2015 Alternative Pension Reform Settlement Framework Between the City of San Jose and the San Jose Police Officers' Association (POA), The International Association of Firefighters, Local 230 (IAFF); Proposed Quo Warranto Implementation Plan, August 14, 2015 (Attachment B to the August 17, 2015			

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<p>Supplemental Memorandum), p. 1, Ex. 4 to RJN). When I became aware that the quo warranto process had not yet begun, but certain contingencies have been eliminated, I secured and met with legal counsel in January and February 2016 to likewise seek intervention in support of the City of San Jose's defense of Measure B."</p>			
<p>11. Hinkle Decl., ¶ 2: "SVTA is a long standing non-profit organization with numerous functions, such as protecting the rights and interests of taxpayers against government over-spending, including for pension and retirement benefits. SVTA's political action committee was primarily formed to support Measure B, City of San Jose's "The Sustainable Retirement Benefits and Compensation Act," at the June 5, 2012 election. SVTA's political committee was one of only two such committees primarily formed to support Measure B. To my knowledge, SVTA has never before formed a political committee primarily to support a particular ballot measure but did so in the case of</p>	<p>Relevance (Evidence Code § 350)</p> <p>SVTA's backing of Measure B arose after Measure B was placed on the ballot. The present lawsuit seeks a determination of whether Measure B was permissibly placed on the ballot in the first place or whether doing so violated the Meyers-Milias-Brown Act ("MMBA"), Government Code section 3500 <i>et seq.</i> If it was not validly placed on the ballot, and because SVTA is not covered by the MMBA, SVTA can have no legally-cognizable interest in the outcome of this matter. As such, its backing of Measure B is irrelevant.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge</p>	<p>This statement is relevant to SVTA's interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm SVTA's members who are voters, residents, and taxpayers. Evid. Code §§ 210 and 350.</p> <p>This statement is based on Mr. Hinkle's personal knowledge, as a President of SVTA. (Evid. Code §§ 403, 701 and 801.)</p> <p>This statement is also based on Mr. Hinkle's experience as set forth in paragraph 1 of SVTA Declaration in Support of Application to Intervene. (Evid. Code §§ 720 and 801.)</p>	<p><input type="checkbox"/> Overruled:</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p>

MATERIAL OBJECTED TO	GROUNDS	RESPONSE	RULING
Measure B because of the centrality of that measure to the core purpose of the organization."	(Evidence Code § 702) No foundation or stated basis for personal knowledge is provided for the statement that "SVTA has never before formed a political committee primarily to support a particular ballot measure."		
12. Hinkle Decl., ¶ 3: "SVTA's membership includes residents and voters in the City of San Jose who supported and voted for Measure B, and who have a direct interest in this matter as described in more detail below."	Relevance (Evidence Code § 350) See objection above concerning the irrelevance of SVTA's post-ballot placement backing of Measure B. Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702) No foundation or stated basis for personal knowledge is provided for the statement.	This statement is relevant to SVTA's involvement in Measure B and its interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm SVTA's members who are voters, residents, and taxpayers. Evid. Code §§ 210 and 350. This statement is based on Mr. Hinkle's personal knowledge, as a President of SVTA. (Evid. Code §§ 403, 701 and 801.) This statement is also based on Mr. Hinkle's experience as set forth in paragraph 1 of SVTA Declaration in Support of Application to Intervene. (Evid. Code §§ 720 and 801.)	<input type="checkbox"/> Overruled: <input type="checkbox"/> Sustained Grounds:
13. Hinkle Decl., ¶ 4: "SVTA officially endorsed a "yes" vote on Measure B. SVTA also raised \$45,000 in support of Measure B."	Relevance (Evidence Code § 350) See objection above concerning the irrelevance of SVTA's post-ballot placement backing of Measure B.	This statement is relevant to SVTA's involvement in Measure B and its interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm SVTA's members	<input type="checkbox"/> Overruled: <input type="checkbox"/> Sustained Grounds:

MATERIAL OBJECTED TO	GROUND	RESPONSE	RULING
		who are voters, residents, and taxpayers. Evid. Code §§ 210 and 350.	
14. Hinkle Decl., ¶ 5: "In addition to raising campaign money in support of Measure B, SVTA actively campaigned for Measure B. Before the election in June 2012, SVTA held monthly "Taxpayer Toolkit" meetings where SVTA discussed the benefits of Measure B to the City's economy with taxpayers and voters of San Jose. SVTA also sent email blasts to its members and donors within SVTA database in support of Measure B."	Relevance (Evidence Code § 350) See objection above concerning the irrelevance of SVTA's post-ballot placement backing of Measure B.	This statement is relevant to SVTA's involvement in Measure B and its interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm SVTA's members who are voters, residents, and taxpayers. Evid. Code §§ 210 and 350.	<input type="checkbox"/> Overruled: <input type="checkbox"/> Sustained Grounds:
15. Hinkle Decl., ¶ 6: "SVTA's then president, John Roeder, had a constituent meeting with Mayor Chuck Reed and one separately with City Council Member Peter Constant to discuss the need for and benefits of Measure B."	Relevance (Evidence Code § 350) See objection above concerning the irrelevance of SVTA's post-ballot placement backing of Measure B. Lack of Foundation (Evidence Code § 400 et seq.) and Lack of Personal Knowledge (Evidence Code § 702) No foundation or stated basis for personal knowledge is provided for the statement.	This statement is relevant to SVTA's involvement in Measure B and its interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm SVTA's members who are voters, residents, and taxpayers. Evid. Code §§ 210 and 350. This statement is based on Mr. Hinkle's personal knowledge, as a President of SVTA. (Evid. Code §§ 403, 701 and 801.) This statement is also based on Mr. Hinkle's	<input type="checkbox"/> Overruled: <input type="checkbox"/> Sustained Grounds:

MATERIAL OBJECTED TO	GROUNDS	RESPONSE	RULING
		experience as set forth in paragraph 1 of SVTA Declaration in Support of Application to Intervene. (Evid. Code §§ 720 and 801.)	
16. Hinkle Decl., ¶ 7: "Mr. Roeder also signed the ballot argument in favor of Measure B, on behalf of the SVTA."	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of SVTA's post-ballot-placement backing of Measure B.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>No foundation or stated basis for personal knowledge is provided for the statement.</p>	<p>This statement is relevant to SVTA's involvement in Measure B and its interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm SVTA's members who are voters, residents, and taxpayers. Evid. Code §§ 210 and 350.</p> <p>This statement is based on Mr. Hinkle's personal knowledge, as a President of SVTA. (Evid. Code §§ 403, 701 and 801.)</p> <p>This statement is also based on Mr. Hinkle's experience as set forth in paragraph 1 of SVTA Declaration in Support of Application to Intervene. (Evid. Code §§ 720 and 801.)</p>	<p><input type="checkbox"/> Overruled:</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p>
17. Hinkle Decl., ¶ 8: "SVTA members believe that the City's increased retirement obligations have been causing service cuts throughout the City of San Jose and creating unsustainable and impossible-to-fund liabilities for the City's taxpayers."	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of SVTA's post-ballot-placement backing of Measure B.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>No foundation or stated</p>	<p>This statement is relevant to SVTA's involvement in Measure B and its interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm SVTA's members who are voters, residents, and taxpayers. Evid. Code §§ 210 and 350.</p> <p>This statement is based</p>	<p><input type="checkbox"/> Overruled:</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p>

MATERIAL OBJECTED TO	GROUNDS	RESPONSE	RULING
	<p>basis for personal knowledge is provided for the statement.</p> <p>Improper Opinion (Evidence Code § 800 <i>et seq.</i>)</p> <p>The opinion or beliefs of SVTA and its members are inadmissible.</p>	<p>on Mr. Hinkle's personal knowledge, as a President of SVTA. (Evid. Code §§ 403, 701 and 801.)</p> <p>This statement is also based on Mr. Hinkle's experience as set forth in paragraph 1 of SVTA Declaration in Support of Application to Intervene. (Evid. Code §§ 720 and 801.)</p> <p>Testimony does not constitute a legal conclusion or an improper opinion because it is in the form of an opinion that is otherwise admissible. (Evid Code §§ 800 <i>et seq.</i>; 310 <i>et seq.</i>)</p>	
<p>18. Hinkle Decl., ¶ 9: "Measure B was designed to protect the City's employees, residents and voters who are among SVTA members. Measure B also empowered SVTA members who are the City of San Jose voters to approve future retirement benefit increases. SVTA members believe that Measure B will ensure that the City can provide reasonable and sustainable post-employment benefits while delivering essential services to the City's residents. Invalidation of Measure B will eliminate San Jose voters' power to</p>	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of SVTA's post-ballot-placement backing of Measure B.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>No foundation or stated basis for personal knowledge is provided for the statement.</p> <p>Improper Opinion (Evidence Code § 800 <i>et seq.</i>)</p> <p>The opinion or beliefs of SVTA and its members are inadmissible.</p> <p>Improper Legal</p>	<p>This statement is relevant to SVTA's involvement in Measure B and its interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm SVTA's members who are voters, residents, and taxpayers. Evid. Code §§ 210 and 350.</p> <p>This statement is based on Mr. Hinkle's personal knowledge, as a President of SVTA. (Evid. Code §§ 403, 701 and 801.)</p> <p>This statement is also based on Mr. Hinkle's experience as set forth in paragraph 1 of SVTA Declaration in Support of Application to</p>	<p><input type="checkbox"/> Overruled:</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p>

MATERIAL OBJECTED TO	GROUND	RESPONSE	RULING
approve future retirement benefit increases."	Conclusion (Evidence Code § 310 <i>et seq.</i>) Statements concerning the legal effect of Measure B or its invalidation are improper legal conclusions.	Intervene. (Evid. Code §§ 720 and 801.) Testimony does not constitute a legal conclusion or an improper opinion because it is in the form of an opinion that is otherwise admissible. (Evid Code §§ 800 <i>et seq.</i> ; 310 <i>et seq.</i>)	
19. Hinkle Decl., ¶ 10: "SVTA's members voted for and supported Measure B because it will require any future retirement benefit increases to be approved by the voters."	Relevance (Evidence Code § 350) See objection above concerning the irrelevance of SVTA's post-ballot-placement backing of Measure B. Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702) No foundation or stated basis for personal knowledge is provided for the statement. Improper Opinion (Evidence Code § 800 <i>et seq.</i>) The opinion or beliefs of SVTA and its members are inadmissible. Improper Legal Conclusion (Evidence Code § 310 <i>et seq.</i>) Statements concerning the legal effect of Measure B or its invalidation are improper legal conclusions.	This statement is relevant to SVTA's involvement in Measure B and its interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm SVTA's members who are voters, residents, and taxpayers. Evid. Code §§ 210 and 350. This statement is based on Mr. Hinkle's personal knowledge, as a President of SVTA. (Evid. Code §§ 403, 701 and 801.) This statement is also based on Mr. Hinkle's experience as set forth in paragraph 1 of SVTA Declaration in Support of Application to Intervene. (Evid. Code §§ 720 and 801.) Testimony does not constitute a legal conclusion or an improper opinion because it is in the form of an opinion that is otherwise admissible. (Evid Code §§ 800 <i>et</i>	<input type="checkbox"/> Overruled: <input type="checkbox"/> Sustained Grounds:

MATERIAL OBJECTED TO	GROUNDS	RESPONSE	RULING
		<i>seq.; 310 et seq.)</i>	
<p>20. Haug Decl., ¶ 5: "I serve as the treasurer for the Silicon Valley Taxpayers Association ("SVTA"). I have experience in finance and accounting from working on financial software projects and performing accounting for my personal business. This experience assisted me in understanding financial benefits of Measure B, "The Sustainable Retirement Benefits and Compensation Act", to the City of San Jose."</p>	<p>Relevance (Evidence Code § 350)</p> <p>Mr. Haug's backing of Measure B arose after Measure B was placed on the ballot. The present lawsuit seeks a determination of whether Measure B was permissibly placed on the ballot in the first place or whether doing so violated the Meyers-Milias-Brown Act ("MMBA"), Government Code section 3500 <i>et seq.</i> If it was not validly placed on the ballot, and because Mr. Haug is not covered by the MMBA, he can have no legally-cognizable interest in the outcome of this matter. As such, his backing of Measure B after it was placed on the ballot is irrelevant.</p> <p>Improper Opinion (Evidence Code § 800 <i>et seq.</i>)</p> <p>The opinion or beliefs of Mr. Haug are inadmissible.</p> <p>Improper Legal Conclusion (Evidence Code § 310 <i>et seq.</i>)</p> <p>Statements concerning the legal effect of Measure B or its invalidation are improper legal conclusions</p>	<p>This statement is relevant to Mr. Haug's involvement in Measure B and his interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm Mr. Haug who is a voter, resident, and taxpayer. Evid. Code §§ 210 and 350.</p> <p>This statement is based on Mr. Haug's personal knowledge, as a San Jose voter, resident, and taxpayer. (Evid. Code §§ 403, 701 and 801.)</p> <p>This statement is also based on Mr. Haug's experience as set forth in paragraphs 1 through 5 of Haug Declaration in Support of Application to Intervene. (Evid. Code §§ 720 and 801.)</p> <p>Testimony does not constitute a legal conclusion or an improper opinion because it is in the form of an opinion that is otherwise admissible. (Evid Code §§ 800 <i>et seq.</i>; 310 <i>et seq.</i>)</p>	<p><input type="checkbox"/> Overruled:</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p>
<p>21. Haug Decl., ¶ 6: "I supported Measure B. As a registered voter of</p>	<p>Relevance (Evidence Code § 350)</p> <p>See objection above</p>	<p>This statement is relevant to Mr. Haug's involvement in Measure</p>	<p><input type="checkbox"/> Overruled:</p>

MATERIAL OBJECTED TO	GROUND	RESPONSE	RULING
San Jose, I voted for the passage of Measure B on June 5, 2012. As a registered voter of San Jose, I benefited in a direct way from passage of Measure B. Section 1504-A of Measure B empowered me and all San Jose voters to approve future increases in retiree payments and health benefits...."	<p>concerning the irrelevance of Mr. Haug's post-ballot-placement backing of Measure B.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>No foundation or stated basis for personal knowledge is provided for the statement.</p> <p>Improper Opinion (Evidence Code § 800 <i>et seq.</i>)</p> <p>The opinion or beliefs of Mr. Haug are inadmissible.</p> <p>Improper Legal Conclusion (Evidence Code § 310 <i>et seq.</i>)</p> <p>Statements concerning the legal effect of Measure B or its invalidation are improper legal conclusions.</p>	<p>B and his interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm Mr. Haug who is a voter, resident, and taxpayer. Evid. Code §§ 210 and 350.</p> <p>This statement is based on Mr. Haug's personal knowledge, as a San Jose voter, resident, and taxpayer. (Evid. Code §§ 403, 701 and 801.)</p> <p>This statement is also based on Mr. Haug's experience as set forth in paragraphs 1 through 5 of Haug Declaration in Support of Application to Intervene. (Evid. Code §§ 720 and 801.)</p> <p>Testimony does not constitute a legal conclusion or an improper opinion because it is in the form of an opinion that is otherwise admissible. (Evid Code §§ 800 <i>et seq.</i>; 310 <i>et seq.</i>)</p>	<p><input type="checkbox"/> Sustained</p> <p>Grounds:</p>
22. Haug Decl., ¶ 7: "Measure B was approved by a majority of San Jose voters. I believe without Measure B, rising pension costs will be passed down to taxpayers, including me, or City services to its residents will continue to be curtailed to support increasing pension costs. Also, if Measure B is invalidated, I will be deprived of the express	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of Mr. Haug's post-ballot-placement backing of Measure B.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>No foundation or stated</p>	<p>This statement is relevant to Mr. Haug's involvement in Measure B and his interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm Mr. Haug who is a voter, resident, and taxpayer. Evid. Code §§ 210 and 350.</p> <p>This statement is based on Mr. Haug's personal knowledge, as a San</p>	<p><input type="checkbox"/> Overruled:</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p>

MATERIAL OBJECTED TO	GROUNDS	RESPONSE	RULING
<p>authority granted to me and other San Jose voters to approve increases in pension and retiree healthcare benefits.”</p>	<p>basis for personal knowledge is provided for the statement.</p> <p>Improper Opinion (Evidence Code § 800 <i>et seq.</i>)</p> <p>The opinion or beliefs of Mr. Haug are inadmissible.</p> <p>Improper Legal Conclusion (Evidence Code § 310 <i>et seq.</i>)</p> <p>Statements concerning the legal effect of Measure B or its invalidation are improper legal conclusions.</p>	<p>Jose voter, resident, and taxpayer. (Evid. Code §§ 403, 701 and 801.)</p> <p>This statement is also based on Mr. Haug’s experience as set forth in paragraphs 1 through 5 of Haug Declaration in Support of Application to Intervene. (Evid. Code §§ 720 and 801.)</p> <p>Testimony does not constitute a legal conclusion or an improper opinion because it is in the form of an opinion that is otherwise admissible. (Evid Code §§ 800 <i>et seq.</i>; 310 <i>et seq.</i>)</p>	
<p>23. Haug Decl., ¶ 8: “I also believe that without Measure B the residents of San Jose, such as myself, will face higher city costs and reduced services as city funds are shifted from important city services to pay for increased pension and related employee and retiree costs. Measure B will lessen the pressure on the City’s finances.”</p>	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of Mr. Haug’s post-ballot-placement backing of Measure B.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>No foundation or stated basis for personal knowledge is provided for the statement.</p> <p>Improper Opinion (Evidence Code § 800 <i>et seq.</i>)</p> <p>The opinion or beliefs of Mr. Haug are inadmissible.</p> <p>Improper Legal Conclusion (Evidence</p>	<p>This statement is relevant to Mr. Haug’s involvement in Measure B and his interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm Mr. Haug who is a voter, resident, and taxpayer. Evid. Code §§ 210 and 350.</p> <p>This statement is based on Mr. Haug’s personal knowledge, as a San Jose voter, resident, and taxpayer. (Evid. Code §§ 403, 701 and 801.)</p> <p>This statement is also based on Mr. Haug’s experience as set forth in paragraphs 1 through 5 of Haug Declaration in Support of Application to Intervene. (Evid. Code §§ 720 and 801.)</p>	<p><input type="checkbox"/> Overruled:</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p>

MATERIAL OBJECTED TO	GROUNDS	RESPONSE	RULING
	<p>Code § 310 <i>et seq.</i>)</p> <p>Statements concerning the legal effect of Measure B or its invalidation are improper legal conclusions.</p>	<p>Testimony does not constitute a legal conclusion or an improper opinion because it is in the form of an opinion that is otherwise admissible. (Evid Code §§ 800 <i>et seq.</i>; 310 <i>et seq.</i>)</p>	
<p>24. Haug Decl., ¶ 9: “I believe the settlement framework modifying Measure B, as well as any judgment nullifying Measure B, would personally harm me as a voter of San Jose by nullifying my constitutional right to vote and join with other like-minded voters to enact Measure B pension reforms. As a resident of San Jose, I have a direct and personal interest in ensuring the City directs its limited resources to essential services and maintains its fiscal viability free from increased pension obligations.”</p>	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of Mr. Haug’s post-ballot-placement backing of Measure B.</p> <p>Lack of Foundation (Evidence Code § 400 <i>et seq.</i>) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>No foundation or stated basis for personal knowledge is provided for the statement.</p> <p>Improper Opinion (Evidence Code § 800 <i>et seq.</i>)</p> <p>The opinion or beliefs of Mr. Haug are inadmissible.</p> <p>Improper Legal Conclusion (Evidence Code § 310 <i>et seq.</i>)</p> <p>Statements concerning the legal effect of Measure B or its invalidation are improper legal conclusions.</p>	<p>This statement is relevant to Mr. Haug’s involvement in Measure B and his interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm Mr. Haug who is a voter, resident, and taxpayer. Evid. Code §§ 210 and 350.</p> <p>This statement is based on Mr. Haug’s personal knowledge, as a San Jose voter, resident, and taxpayer. (Evid. Code §§ 403, 701 and 801.)</p> <p>This statement is also based on Mr. Haug’s experience as set forth in paragraphs 1 through 5 of Haug Declaration in Support of Application to Intervene. (Evid. Code §§ 720 and 801.)</p> <p>Testimony does not constitute a legal conclusion or an improper opinion because it is in the form of an opinion that is otherwise admissible. (Evid Code §§ 800 <i>et seq.</i>; 310 <i>et seq.</i>)</p>	<p><input type="checkbox"/> Overruled:</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p>

MATERIAL OBJECTED TO	GROUND	RESPONSE	RULING
25. Haug Decl., ¶ 10: "I will also be personally impacted if Measure B is nullified or modified, because the prospect of increased local taxes to support rising pension costs and essential municipal services, and ensure the city's solvency would put a strain on my fixed income from the limited retirement benefits I receive and could make it impossible for me to be able to afford my home. I voted for Measure B so that San Jose residents and voters like myself are authorized to approve pension increases."	<p>Relevance (Evidence Code § 350)</p> <p>See objection above concerning the irrelevance of Mr. Haug's post-ballot-placement backing of Measure B.</p> <p>Lack of Foundation (Evidence Code § 400 et seq.) and Lack of Personal Knowledge (Evidence Code § 702)</p> <p>No foundation or stated basis for personal knowledge is provided for the statement.</p> <p>Improper Opinion (Evidence Code § 800 et seq.)</p> <p>The opinion or beliefs of Mr. Haug are inadmissible.</p> <p>Improper Legal Conclusion (Evidence Code § 310 et seq.)</p> <p>Statements concerning the legal effect of Measure B or its invalidation are improper legal conclusions.</p>	<p>This statement is relevant to Mr. Haug's involvement in Measure B and his interest in this litigation and settlement between the Parties. A judgment invalidating Measure B will directly harm Mr. Haug who is a voter, resident, and taxpayer. Evid. Code §§ 210 and 350.</p> <p>This statement is based on Mr. Haug's personal knowledge, as a San Jose voter, resident, and taxpayer. (Evid. Code §§ 403, 701 and 801.)</p> <p>This statement is also based on Mr. Haug's experience as set forth in paragraphs 1 through 5 of Haug Declaration in Support of Application to Intervene. (Evid. Code §§ 720 and 801.)</p> <p>Testimony does not constitute a legal conclusion or an improper opinion because it is in the form of an opinion that is otherwise admissible. (Evid Code §§ 800 et seq.; 310 et seq.)</p>	<p><input type="checkbox"/> Overruled:</p> <p><input type="checkbox"/> Sustained</p> <p>Grounds:</p>

DATED:
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